

Supreme Court, U.S.

FILED

DEC 18 1989

NO. 89-827

JOSEPH F. SPANIOL, JR.  
CLERK

IN THE SUPREME COURT OF THE UNITED STATES  
October Term, 1989

LAWRENCE ALLEN CAMERON,

Petitioner,

-vs-

ROBERT GOLDSMITH and ROBERT K. CORBIN,  
Attorney General of Arizona,

Respondents.

ON WRIT OF CERTIORARI TO THE  
NINTH CIRCUIT

BRIEF OF THE STATE OF ARIZONA  
IN OPPOSITION TO THE  
PETITION FOR WRIT OF CERTIORARI

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QUESTIONS PRESENTED FOR REVIEW

In concluding that the state trial court followed proper procedures when it determined petitioner's competency to waive a jury, did the circuit court decide a federal question in a way that conflicts with applicable decisions of this Court?



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### STATEMENT OF THE CASE

The state charged petitioner with numerous crimes arising from five separate incidents. One incident involved a theft from a motor vehicle; another involved appellant holding a female at knife point inside her trailer; another involved petitioner slugging a female in the face with a pitcher of beer; another involved petitioner's attempt to break into a trailer, and his firing shots at the occupant's vehicle while she escaped; another involved petitioner's threatening to shoot a police officer who was trying to arrest him. Before trial, petitioner unsuccessfully challenged his competency to stand trial. Petitioner waived a jury, and was tried to the bench. (CR 8, Exhibit 1, R.T. of Dec. 6, 1983, at 18-23.) The defense presented was insanity. The trial court found



petitioner guilty on all counts, and sentenced him to what amounted to three consecutive 10-year sentences.

Petitioner appealed his convictions, and the state court of appeals remanded the case to the trial court for a determination whether petitioner had been competent to waive a jury. State v. Cameron, 146 Ariz. 210, 211-13, 704 P.2d 1355, 1356-57 (Ct. App. 1985).

At the remand hearing, the state trial court ruled on the basis of information already before it that petitioner had been competent to waive a jury. (CR 9, R.T. of Oct. 16, 1985, at 2-5.)

Petitioner again appealed to the court of appeals, asserting that it was improper for the trial court to retrospectively determine whether petitioner was competent to waive a jury, that the trial court should have held an



evidentiary hearing on the issue, that the trial court applied the wrong standard, and that the evidence was insufficient to support the trial court's standing. (CR 8, Exhibit 9, at 7-14.) The court of appeals affirmed petitioner's convictions in a memorandum decision. (CR 8, Exhibit 12.) The court held that the record already before the trial court, including the mental health reports and the testimony of the mental health experts, had been sufficient to permit the trial court to determine that petitioner had been competent to waive a jury, and that the appointment of new mental health experts and the holding of an evidentiary hearing had been unnecessary. (Id. at 2.) The court also held that the trial court had applied the proper standard, and that the trial court's conclusion was supported by sufficient evidence. (Id. at 3.)



Petitioner filed a petition for review by the state supreme court, raising the issues he had raised in the court of appeals. (CR 8, Exhibit 13.) The supreme court denied this petition. (CR 8, Exhibit 14.)

Petitioner subsequently filed a federal habeas action asserting that the remand hearing had violated due process. (CR 2.) The federal magistrate recommended dismissal, and the district court dismissed the petition. (CR 13, 14.) Petitioner then appealed to the Ninth Circuit Court of Appeals, which in a memorandum decision affirmed the action of the district court.

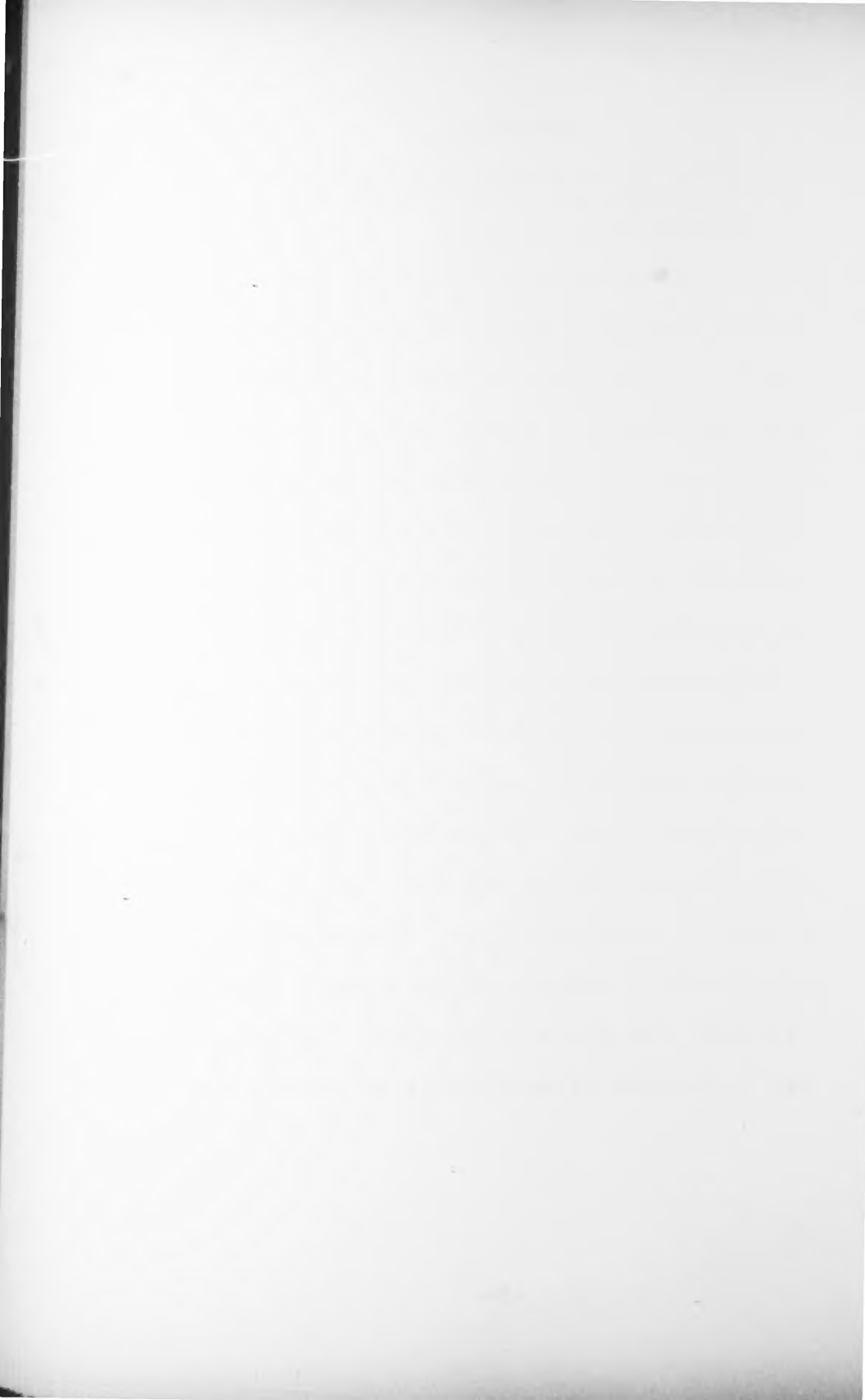


## ARGUMENT

THERE IS NO REASON FOR THIS COURT  
TO REVIEW THE CIRCUIT COURT'S  
DECISION.

Petitioner asserts that this Court should grant his petition for a writ of certiorari because the circuit court decided a federal question in a way that conflicts with applicable decisions of this Court. However, the circuit court's decision is fully consistent with the law as promulgated by this Court.

Petitioner asserts that the circuit court erred in concluding that the remand hearing complied with due process. More specifically, he asserts that the circuit court wrongly concluded (1) that it was proper to retrospectively determine petitioner's competency to waive a jury, (2) that the state trial court's finding was supported by sufficient evidence, and



(3) that the state trial court applied the correct standard. Respondents submit that the circuit court properly decided these issues.

(1) The circumstances were such as to permit a retrospective determination of petitioner's competency to waive a jury. The remand hearing occurred less than 2 years after the jury waiver. (CR 8, Exhibit 1, R.T. of Dec. 6, 1983, at 18-22; CR 9, R.T. of Oct. 10, 1985, at 4.) At the remand hearing, the trial court had before it sufficient information to permit a determination whether petitioner had been competent to plead. The trial court had the benefit of the reports of the three mental health experts who had examined petitioner to determine his competency to stand trial. (CR 8, Exhibits 15, 16, 17.) The trial court also had the benefit of the great



amount of evidence presented at trial relating to petitioner's insanity defense. (CR 8, Exhibit 1, R.T. of Dec. 6, 1983, at 54-152.)

(2) The state trial court's finding that petitioner had been competent to waive a jury was supported by sufficient evidence. The trial court's finding was based on the reports of the three mental health experts, petitioner's conduct when he waived the jury, and the testimony of the mental health experts at trial. (CR 8, Exhibits 15, 16, 17; CR 8, Exhibit 1, R.T. of Dec. 6, 1983, at 18-22, 54-152.) Even though competency to waive a jury implicates a higher standard than competency to stand trial, it is relevant that the mental health experts were in agreement that petitioner was competent to stand trial. (CR 8, Exhibits 15, 16, 17.)



(3) The state trial court applied the correct standard in determining petitioner's competency to waive a jury. Quoting from Sieling v. Eyman, 478 F.2d 211 (9th Cir. 1973), the state court of appeals in its opinion defined the applicable standard as whether petitioner could make a rational and reasoned decision on a matter of very serious import. State v. Cameron, 146 Ariz. 210, 212, 704 P.2d 1355, 1357 (Ct.App. 1985). The state trial court declared that it had followed the standard propounded by the appellate court. (CR 9, R.T. of Oct. 18, 1985, at 2-5.) While the trial court may have been confused initially about the standard to be applied, it would appear that the assistance of counsel for both sides cleared up any confusion. (Id.)

Petitioner asserts that the circuit court inappropriately cited Maggio v.



Fulford, 462 U.S. 111 (1983). However, Maggio is not at all inconsistent with the circuit court's ruling that the state trial court's determination was fairly supported by the record. In Maggio, the state trial court, in determining that the defendant was competent to stand trial, relied on its personal observations and the manner in which the issue was raised. In this case, the state trial court, in determining that petitioner had been competent to waive a jury, relied on its personal observations and the mental health evidence.



CONCLUSION

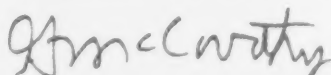
Because the circuit court's decision does not conflict with the applicable decisions of this Court, this Court should deny this petition for a writ of certiorari.

DATED this 18th day of December, 1989.

Respectfully submitted,

ROBERT K. CORBIN  
Attorney General

JESSICA GIFFORD FUNKHOUSER  
Chief Counsel  
Criminal Division

A handwritten signature in cursive script, appearing to read "G. McCarthy".

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(Counsel of Record)

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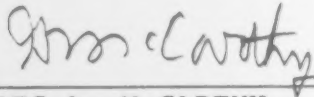


CERTIFICATE OF SERVICE

THREE COPIES of this Brief were mailed  
December 18, 1989, to:

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